

MINUTES

BOARD OF COMMISSIONERS

The Board of Commissioners of the City of Burkburnett, Texas met in a regular meeting on Monday, September 20, 2010 at 7:00 p.m. in the Council Chambers of the City Hall, 501 Sheppard Road, Burkburnett, Texas. The meeting was open to the public with notice being given in compliance with the Open Meeting Act. The following Commissioners were present:

Carl Law	Mayor
Charlene Lewis	Mayor Pro-Tem
Bill Lindenborn	Commissioner
Ted Kwas	Commissioner
Josh Andrajack	Commissioner
Chase Thronton	Commissioner
Raymond Holland	Commissioner

Other's present: Mike Slye, City Manager; Trish Holley, City Clerk; Don Ives, Director of Administration; Mike Whaley, Director of Public Works and Mike Tracey, Chief of Police; Randy West and Bill Brugman, Atmos; Lee Bourgoin, Wichita County, Kelly Bolen, Executive Director, Burkburnett Development Corporation.

Other's present: Ron Clarke, Ronda Denton, Jerry Stubblefield, Flora Holland, Glen Hutchinson, Michael Bunton, Thomas Watson, Jack McMullen, Martha Gahagan, Clay Gahagan, Stuart King, Warren Fretz, Pat Dollar, Curtis Salyer, Cindy Guinn, Shawna Anderson, Debbie & Mike Graham, Jack Baber, Scott Hogue, Bill McGuire, Larry Russell, Marguerite & Jason Love, Amy Brownstein, Dean Hanson, Jim Kincaid, Eddie Viavattene, Arnie & Nancy Wells, Trudy Thompson, W. L. Bunton, Zac Leonard, Gayla Kessinger, Carol Holland and Carrie Rigsby.

Jeff Bromley representing Burkburnett Informer Star was present.

Item 1. Mayor Law called the meeting to order and welcomed the visitors.

Item 2. Invocation was given by Bishop Dan Jensen, Church of Jesus of Latter Day Saints.

Item 3. The Pledge of Allegiance was led by Commissioner Holland.

Item 4. Consent Agenda. Mayor Law removed Item 4 B & C to the regular agenda.

A. Approval of minutes from July 29th Budget Workshop, July 30th, August 16th Budget Hearing and August 16th and August 23, 2010.

Motion was made by Commissioner Lewis, seconded by Commissioner Holland to approve Consent Agenda 4A. Motion carried unanimously.

Item 4B. Michael Whaley, Director of Public Works addressed the Mayor and Commissioners. Mr. Whaley stated the Planning & Zoning Commission reviewed and approved the Family Dollar Site Plan. Mr. Whaley stated city staff recommends approving the site plan that is being presented to you.

Motion was made by Commissioner Andrajack, seconded by Commissioner Kwas to approve the Family Dollar Site Plan as presented. Motion carried unanimously.

Item 4C. Michael Whaley, Director of Public Works addressed the Mayor and Commissioners. Mr. Whaley stated the Planning & Zoning Commission reviewed and approved the Whaley Products Site Plan. Mr. Whaley stated the Zoning Board of Adjustment will be addressed concerning the setback requirements.

Motion was made by Commissioner Lindenborn, seconded by Commissioner Lewis to approve the Whaley Products Site Plan as presented. Motion carried unanimously.

Item 5. Mike Slye, City Manager addressed the Mayor and Commissioners. Mr. Slye explained a citizen had approached the city asking if he could submit a bid on 510 Davey Drive. Mr. Slye explained, the property had been struck off to the city, had numerous mowing liens and was uninhabitable Mr. Slye stated the city received a walk in bid of \$6,625.00 from Kenneth Holt. Mr. Slye introduced Jean Marie Bear, City Tax Attorney with Perdue, Brandon & Fielder to explain the process.

Ms. Bear addressed the board and explained that if a city receives a bid for an amount that equals what is owed in taxes and liens or for more, then the City Council only has to approve it. If the amount is for a less amount, then each taxing entity would need to approve the bid. The bid can be received either through a sealed bid offering or by a private walk in bid.

Mr. Slye explained the city has told Mr. Holt what he will need to do in order to bring the property up to code before a certificate of occupancy can be issued on the property.

Motion was made by Commissioner Thornton, seconded by Commissioner Kwas to approve the bid in the amount of \$6,625.00 for 510 Davey. Motion carried unanimously.

Item 6. Mayor Law recessed to “Executive Session” at 7:16 p.m. pursuant to the Texas Open Meetings Act, Section 551.071 (1) Consultation with Attorney (a) pending or contemplated litigation.

Item 7. The Commissioners reconvened to regular session at 8:14 p.m. and no action was taken.

Mayor Law moved Item 19 up.

Item 19. Resolution Number 498 was presented. A joint resolution between the City and Wichita County for Comprehensive Emergency Management.

Motion was made by Commissioner Andrajack, seconded by Commissioner Holland to approve Resolution Number 498 as presented. Motion carried unanimously.

Item 8. Don Ives, Director of Administration presented the previously opened bids for the SECO Grant Electrical/Construction bid for the updates at City Hall and the Public Library. They are as follows:

<u>Bidder</u>	<u>Amount</u>
Cleveland Electric Wichita Falls	\$73,136.22
Davis Electric Wichita Falls	\$94,256.00
Cheney Electric Burkburnett	\$67,569.00
EV Electric & Security Burkburnett	\$87,800.00

Mr. Ives explained the city received \$57,576.00 in stimulus funding from the State Conservation Energy Office to be used for the updating of the lights and ceiling fixtures at City Hall and the Public Library. Mr. Ives stated the Public Works department has agreed to remove the ceiling tiles at the Public Library. By doing this, Cheney Electric figured the cost associated with the demo work amounts to \$7,578.00 and have agreed to take that amount from their bid which makes it closer to the amount the city received.

The Commissioners discussed if any asbestos tests had been performed. After much discussion, motion was made by Commissioner Andrajack, seconded by Commissioner Thornton to approve the bid from Cheney Electric contingent upon asbestos tests be performed and no asbestos found, and the Public Works

department remove the tiles which lowers the bid by \$7,578.00. Motion carried unanimously.

Item 9. Ordinance Number 787 was presented in its entirety. Caption of same being:

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, ("CITY") APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE ("ACSC" OR "STEERING COMMITTEE") AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "COMPANY") REGARDING THE COMPANY'S THIRD RATE REVIEW MECHANISM ("RRM") FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; APPROVING ATMOS MID-TEX'S PROOF OF REVENUES; EXTENDING THE RRM PROCESS FOR TWO CYCLES AND ADOPTING A NEW RRM TARIFF; RATIFYING THE SETTLEMENT AGREEMENT, INCLUDING COST RECOVERY FOR A STEEL SERVICE LINE REPLACEMENT PROGRAM; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL.

Motion was made by Commissioner Lindenborn, seconded by Commissioner Kwas to approve Ordinance Number 787 as presented. Motion carried unanimously.

Item 10. Ordinance Number 788 was presented in its entirety. Caption of same being:

AN ORDINANCE ADOPTING THE FISCAL YEAR OPERATING BUDGET OCTOBER 1, 2010 – SEPTEMBER 30, 2011 FOR THE CITY OF BURKBURNETT, TEXAS AND APPROPRIATING THE SEVERAL SUMS SET UP THEREIN TO THE OBJECTS AND PURPOSES THEREIN NAMED, AND PROVIDING AN EFFECTIVE DATE.

Motion was made by Commissioner Kwas, seconded by Commissioner Lindenborn to approve Ordinance Number 788 as presented. Motion carried unanimously.

Item 11. Ordinance Number 789 was presented in its entirety. Caption of same being:

AN ORDINANCE ADOPTING THE FISCAL YEAR CAPITAL IMPROVEMENT BUDGET OCTOBER 1, 2010 - SEPTEMBER 30, 2011 FOR THE CITY OF BURKBURNETT, TEXAS AND APPROPRIATING THE SEVERAL SUMS SET UP THEREIN TO THE OBJECTS AND PURPOSES THEREIN NAMED, AND PROVIDING AN EFFECTIVE DATE.

Motion was made by Commissioner Thornton, seconded by Commissioner Holland to approve Ordinance Number 789 as presented. Motion carried unanimously.

Item 12. Ordinance Number 790 was presented in its entirety. Caption of same being:

AN ORDINANCE LEVYING AN ANNUAL AD VALOREM TAX FOR THE YEAR 2010. SETTING SPECIFIC TAX RATES, APPLICABLE TO ALL REAL, PERSONAL AND MIXED PROPERTY SITUATED WITHIN THE CITY OF BURKBURNETT CITY LIMITS; SETTING THE DUE DATE AND PROVIDING FOR PENALTIES AND INTEREST ON DELINQUENT TAXES.

Motion was made by Commissioner Holland, seconded by Commissioner Kwas to approve Ordinance Number 790 as presented. Motion carried unanimously.

Item 13. Motion was made by Commissioner Thornton, seconded by Commissioner Lewis to approve the Burkburnett Development Corporation Fiscal Year 2011 Budget. Motion carried unanimously.

Item 14. Resolution Number 492 was presented. A Burkburnett Development Corporation economic incentive agreement with Bella's Italian Restaurant-2nd and Final Reading.

Motion was made by Commissioner Kwas, seconded by Commissioner Holland to approve Resolution Number 492 as presented. Motion carried unanimously.

Item 15. Resolution Number 493 was presented. A Burkburnett Development Corporation economic incentive agreement with Whaley Products-2nd and Final Reading.

Motion was made by Commissioner Holland, seconded by Commissioner Thornton to approve Resolution Number 493 as presented. Motion carried unanimously.

Item 16. Resolution Number 494 was presented. A Burkburnett Development Corporation economic incentive with Sheppard Military Affairs Committee-2nd and Final Reading.

Motion was made by Commissioner Andrajack, seconded by Commissioner Lindenborn to approve Resolution Number 494 as presented. Motion carried unanimously.

Item 17. Resolution Number 497 was presented. A resolution designating October 30, 2010 as the official Halloween Trick or Treat night for Burkburnett.

Motion was made by Commissioner Holland, seconded by Commissioner Thornton to approve Resolution Number 497 as presented. Motion carried unanimously.

Item 18. Michael Whaley, Director of Public Works addressed the Mayor and Commissioners. Mr. Whaley stated the Planning & Zoning Commission had reviewed and approved the Cropper Road Stor & Lock Site Plan. Mr. Whaley stated city staff recommends approving the site plan being presented to you.

Motion was made by Commissioner Lindenborn, seconded by Commissioner Thornton to approve Cropper Road Stor & Lock Site Plan.

Ayes: Mayor Law, Commissioners: Kwas, Lindenborn, Lewis, Holland, Thornton.

Nays: None

Abstained: Commissioner Andrajack

Item 20. Review of monthly reports.

- A. Administration-Don Ives briefly highlighted the financial reports and gave an update on the Personnel Report.
- B. Public Works-Mike Whaley reported a bid opening will be held on October 14th for the I44 Sewer Project, 3 properties are currently being demolition, and the annual chip seal will start on Friday.
- C. Public Safety-Chief Mike Tracey stated he has provided in your council book a quarterly asset forfeiture quarterly report.

Item 21. Personal Audience Comments.

Flora Holland, 116 N. Avenue F, Burkburnett addressed the Mayor and Commissioners regarding the property she owns at the Burkburnett Memorial Cemetery and the destruction made to her cemetery spaces by city employees using a mower over her property.

Item 22. City Manager's report.

- A. Sales Tax Revenue update-Mr. Slye reported sales tax revenues year to date are down by 1.84%.

- B. Ameron/Daniels Road Intersection update-Mr. Slye stated the city has been in contact with Texas Department of Public Safety and have applied for additional federal safety issue monies to see if Ameron can be straighten out at the curve-intersection of Ameron/Preston, the Burkburnett Development Corporation made a decision to invest in the welcome sign and the city agreed to keep it maintained; the city installed ballards and that wasn't the solution; the city has installed more lighting but the real solution may be to straighten the road out. The city is being aggressive about slowing our citizens down in the area; if you drive the posted speed limits, you will not have any troubles.
- C. Update of Purchasing/Procurement Policy Manual- Mr. Slye stated staff is currently working on a Comprehensive Purchasing/Procurement Policy Manual that will be presented to you for approval.
- D. Update on Personnel Policy and Procedure Manual-Mr. Slye stated staff is also updating the personnel policy and procedure manual that will also be presented to you for approval at a later date.

Commissioner Thornton stated he understands the Ameron/Preston Intersection is dangerous, but it might be more cost effective to move the welcome sign verses straightening the road should we not get any federal money to fix it. An immediate safety issue that needs to be addressed is a light that is directed towards the drivers that blinds them while driving.

Mike Slye stated that Ms. Gahagan came in today with a similar problem as Ms. Holland concerning her cemetery property. I told Ms. Gahagan that I would investigate this first thing in the morning and take remedial actions for folks that have the desire to take care of their own property and that we will not get on their property. I will make sure this doesn't happen again and I want to apologize to Ms. Holland and Ms. Gahagan.

Item 23. Council comments.

Commissioner Thornton thanked the visitors for coming and city staff for the work done on the budget, I would like to apologize to those with incidents at the cemetery, I feel Mr. Slye will investigate this and handle the situation; I have family in the Burkburnett cemetery and will be going out to check on the property.

Commissioner Holland thanked everyone for coming tonight.

Commissioner Lewis wanted it clarified on who made the decision on the placement of the welcome sign. Mr. Slye stated Burkburnett Development Corporation agreed to pay for the cost associated with the sign, the City in return agreed to keep it maintained and lighted-the placement of the sign was incorporated with the Cropper Road Improvement project. Commissioner Lewis also stated she thought the Personnel Policy and Purchasing Policy should be on the regular agenda for Commissioner approval. Mr. Slye stated that they will be, city staff is currently working on the policy and once we have completed a draft it will be forwarded to you and will be acted upon by

the Board; I only wanted the Commissioners to be aware staff is working on the two manuals. Commissioner Lewis apologized to Ms. Holland and Ms. Gahagan for the incident at the cemetery.

Commissioner Lindenborn stated that he agreed with what the other Commissioners have already said tonight and thanked everyone for coming.

Commissioner Kwas stated that whoever ran over the cemetery space with a mower and is a sign of stupidity and if it was up to me I would fire the person that did it. Mr. Slye stated he didn't know the circumstances but intend to find out at 8 am tomorrow and appropriate action will be taken. Commissioner Kwas stated that the person should pay for the items he destroyed from his own pocket. Commissioner Kwas thanked everyone for coming and staying late, he stated the executive session took longer than expected.

Commissioner Andrajack stated like Commissioner Thornton stated he wanted to express his condolences for the cemetery issue and sounds like the city will take the appropriate steps and measures to make sure this doesn't happen again in the future.

Mayor Law stated that he assured that we all regret what happened at the cemetery and it would not happen again. Mayor Law thanked everyone for coming, staying late and said stated the board wants to represent everyone and in everything they act upon.

Item 24. Motion was made by Commissioner Thornton, seconded by Commissioner Lewis to adjourn. Motion carried unanimously.

Carl Law, Mayor

ATTEST:

Trish Holley, City Clerk